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10 United States of America

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 WAHEEB G. ANTAKLY and
18 MARIA T. ANTAKLY,

19 Defendants.

No. 2:21-cv-02904

Complaint to Reduce Civil
Money Penalties to Judgment

[Financial-account numbers
redacted pursuant to FRCP 5.2]

20 **COMPLAINT**

21 The United States of America (United States), on behalf of its agency the Internal
22 Revenue Service (IRS), brings this action to reduce to judgment unpaid civil money
23 penalties owed by Waheeb G. Antakly and Maria T. Antakly. The United States
24 complains and alleges on information and belief as follows.

25 **Authorization for Suit**

26 1. This action is brought pursuant to 31 U.S.C. § 3711(g)(4)(C) and in
27 accordance with 31 U.S.C. § 5321 at the direction of the Attorney General of the United
28 States and at the request of--and with the authorization of--the Chief Counsel of the IRS,

1 a delegate of the Secretary of the Treasury of the United States.

2 **Jurisdiction and Venue**

3 2. The district court has jurisdiction over this action under 28 U.S.C. §§ 1331
4 and 1345 because the action arises under the laws of the United States and the United
5 States is the plaintiff.

6 3. Venue properly lies in the Central District of California under 28 U.S.C. §
7 1391(c)(3) because neither defendant is resident in the United States. Additionally,
8 venue properly lies in this district under 28 U.S.C. § 1396(b)(2) because a substantial
9 part of the events or omissions giving rise to the claim occurred in this district.

10 **The Defendants**

11 4. Waheeb G. Antakly (Waheeb) is made a party to this suit because he
12 incurred, but failed to pay, civil money penalties (FBAR penalties) assessed under 31
13 U.S.C. § 5321(a)(5)(A) and associated regulations. Upon information and belief,
14 Waheeb resides outside of the United States.

15 5. Maria T. Antakly (Maria) is made a party to this suit because she incurred,
16 but failed to pay, FBAR penalties assessed under 31 U.S.C. § 5321(a)(5)(A) and
17 associated regulations. Upon information and belief, Maria resides outside of the United
18 States.

19 6. Waheeb and Maria (collectively, defendants) were married at all relevant
20 times.

21 **Statutory Background**

22 7. 31 U.S.C. § 5314 requires certain United States persons, including United
23 States citizens, to report certain transactions and relationships with foreign financial
24 agencies.

25 8. Section 5314's implementing regulations require that "[e]ach United States
26 person having a foreign interest in, or signature or authority over, a bank, securities, or
27 other financial account in a foreign country shall report such relationship" to the IRS for
28 each year in which that relationship exists.

1 9. The relationship must be reported to the IRS on Treasury Form TD F 90-
2 22.1, Report of Foreign Bank and Financial Accounts. That form is commonly called an
3 “FBAR.”

4 10. An FBAR is due no later than June 30 “of each calendar year with respect
5 to foreign financial accounts exceeding \$10,000 maintained during the previous calendar
6 year.”

7 11. Under 31 U.S.C. § 5321(a)(5)(A), if any person “violates, or causes any
8 violation of, any provision of section 5314” the Secretary of the Treasury is authorized to
9 impose an FBAR penalty for that violation.

10 12. Unless a violation was willful as provided in 31 U.S.C. § 5321(a)(5)(C), the
11 amount of any FBAR penalty “shall not exceed \$10,000.”

12 13. Under 31 U.S.C. § 5321(b)(1), an FBAR penalty may be assessed “at any
13 time before the end of the 6-year period beginning on the date of the transaction with
14 respect to which the penalty is assessed.”

15 **Defendants Failed to Report Foreign Financial Accounts**

16 14. Defendants were United States citizens at all relevant times.

17 15. From 2005 through 2012, defendants had financial interests in, signature
18 authority over, and/or otherwise controlled financial accounts outside of the United
19 States.

20 16. Between 2005 and 2011, defendants had financial interests in, signature
21 authority over, and/or otherwise controlled as many as eight and as few as three financial
22 accounts at Bordier & Cie, a bank in Switzerland. The high balances and account
23 numbers associated with defendants’ Bordier & Cie accounts were as follows:

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17.

Account Number	2005	2006	2007	2008	2009	2010	2011
██████████ 0.840	\$2,483,046	\$1,495,235	\$730,611	\$194,336	\$133,488	\$22,922	\$13,680
██████████ 0.840	\$1,425,000	\$1,400,000	\$1,000,000	\$150,000			
██████████ 0.840	\$2,800,000	\$500,000			\$680,338		
██████████ 0.840	\$194,559	\$338,529	\$100,747	\$125,501	\$228,483		
██████████ 0.840	\$145,000						
██████████ 0.978		\$156,527	\$127,335	\$30,355	\$32,489		
██████████ 0916	\$704,346	\$1,167,106	\$1,460,488	\$1,558,112	\$1,205,879		
██████████ 7605	\$653,726	\$1,357,631	\$1,410,067	\$1,448,181	\$982,051	\$750,780	\$712,415
██████████ 0.826				\$133,753	\$533,464	\$36,001	\$217,847
██████████ 0.826				\$121,766	\$129,870		

18. In 2012, defendants had financial interests in, signature authority over, and/or otherwise controlled two financial accounts at HSBC Bank Oman SAOG (HSBC Oman), a bank in Oman. The high balances and account numbers associated with defendants HSBC Oman accounts during 2012 were as follows:

Account Number	High Balance
██████████ 7-035	\$701
██████████ 7-125	\$34,644

19. During each year between 2005 and 2012, defendants' foreign accounts, either individually or collectively, had balances in excess of \$10,000.

20. Defendants were required by law to file FBARs reporting their financial interests in their foreign accounts for the years 2005 through 2012.

21. Defendants did not file timely FBARs disclosing their foreign accounts for the years 2005 through 2012.

Reduction of Assessments to Judgment

22. In 2016 and 2018, defendants and the IRS executed a series of agreements which extended through December 31, 2019, the dates for the IRS to assess FBAR penalties for the 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012 calendar years.

23. On or around April 9, 2019, the IRS timely assessed non-willful FBAR penalties against Waheeb as follows:

Year	2005	2006	2007	2008	2009	2010	2011	2012
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000				
Bordier & Cie 0.840	\$10,000	\$10,000						
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 0.840	\$10,000							
Bordier & Cie 0.978		\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 0916	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 7605	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.826				\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.826				\$10,000	\$10,000			
Bordier & Cie 0.001					\$10,000			
HSBC Oman 7-035								\$500
HSBC Oman 7-125								\$500
Total	\$70,000	\$70,000	\$60,000	\$80,000	\$80,000	\$30,000	\$30,000	\$1,000

25. Together, the FBAR penalties assessed against Waheeb total \$421,000.

26. On or around April 15, 2019, notice and demand for payment of the FBAR penalties described in paragraph 24 was sent to Waheeb at his last-known address. Waheeb, however, has not paid the penalties.

27. As of May 1, 2020, the unpaid balance owed to the United States by Waheeb for the FBAR penalties, including late payment penalties and interest, was \$449,905.

28. On or around May 9, 2019, the IRS timely assessed \$421,000 of non-willful FBAR penalties against Maria as follows:

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Year	2005	2006	2007	2008	2009	2010	2011	2012
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000				
Bordier & Cie 0.840	\$10,000	\$10,000						
Bordier & Cie 0.840	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 0.840	\$10,000							
Bordier & Cie 0.978		\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 0916	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000			
Bordier & Cie 7605	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.826				\$10,000	\$10,000	\$10,000	\$10,000	
Bordier & Cie 0.826				\$10,000	\$10,000			
Bordier & Cie 0.001					\$10,000			
HSBC Oman 7-035								\$500
HSBC Oman 7-125								\$500
Total	\$70,000	\$70,000	\$60,000	\$80,000	\$80,000	\$30,000	\$30,000	\$1,000

29. On or around May 17, 2019, notice and demand for payment of the FBAR penalties listed in the preceding paragraph was sent to Maria at her last-known address. Maria, however, has not paid the penalties.

30. As of May 1, 2020, the unpaid balance owed to the United States by Maria for the FBAR penalties, including late payment penalties and interest, was \$449,905.

31. Interest, as provided by law, has accrued on the penalties assessed against each defendant and remains unpaid. Late payment penalties have also accrued.

32. The United States is entitled to a judgment against Waheeb in the amount of \$449,905 plus additional accrued penalties, interest, and fees as provided by law.

33. The United States is entitled to a judgment against Maria in the amount of \$449,905 plus additional accrued penalties, interest, and fees as provided by law.

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1 WHEREFORE, the United States requests that the Court:

2 A. Enter judgment against Waheeb and in favor of the United States in the
3 amount of \$449,905, plus additional accrued penalties, interest, and fees as provided by
4 law;

5 B. Enter judgment against Maria and in favor of the United States in the
6 amount of \$449,905, plus additional accrued penalties, interest, and fees as provided by
7 law;

8 C. Award the United States its costs in bringing this action; and

9 D. Order such other relief as justice requires.

10 Dated: April 5, 2021

Respectfully submitted,

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Acting United States Attorney
12 THOMAS D. COKER
Assistant United States Attorney
13 Chief, Tax Division

14 /s/ John D. Ellis
15 ROBERT F. CONTE
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